

1 AN ACT in relation to investment by public agencies.

2 Be it enacted by the People of the State of Illinois,
3 represented in the General Assembly:

4 Section 5. The Public Funds Investment Act is amended by
5 changing Section 2 as follows:

6 (30 ILCS 235/2) (from Ch. 85, par. 902)

7 Sec. 2. Authorized investments.

8 (a) Any public agency may invest any public funds as
9 follows:

10 (1) in bonds, notes, certificates of indebtedness,
11 treasury bills or other securities now or hereafter
12 issued, which are guaranteed by the full faith and credit
13 of the United States of America as to principal and
14 interest;

15 (2) in bonds, notes, debentures, or other similar
16 obligations of the United States of America or its
17 agencies or of the Federal National Mortgage Association;

18 (3) in interest-bearing savings accounts,
19 interest-bearing certificates of deposit or
20 interest-bearing time deposits or any other investments
21 constituting direct obligations of any bank as defined by
22 the Illinois Banking Act;

23 (4) in short term obligations of corporations
24 organized in the United States with assets exceeding
25 \$500,000,000 if (i) such obligations are rated at the
26 time of purchase at one of the 3 highest classifications
27 established by at least 2 standard rating services and
28 which mature not later than 180 days from the date of
29 purchase, (ii) such purchases do not exceed 10% of the
30 corporation's outstanding obligations and (iii) no more
31 than one-third of the public agency's funds may be

1 invested in short term obligations of corporations; or
2 (5) in money market mutual funds registered under
3 the Investment Company Act of 1940, provided that the
4 portfolio of any such money market mutual fund is limited
5 to obligations described in paragraph (1) or (2) of this
6 subsection and to agreements to repurchase such
7 obligations.

8 (a-1) In addition to any other investments authorized
9 under this Act, a municipality may invest its public funds in
10 interest bearing bonds of any county, township, city,
11 village, incorporated town, municipal corporation, or school
12 district. The bonds shall be registered in the name of the
13 municipality or held under a custodial agreement at a bank.
14 The bonds shall be rated at the time of purchase within the 4
15 highest general classifications established by a rating
16 service of nationally recognized expertise in rating bonds of
17 states and their political subdivisions.

18 (b) Investments may be made only in banks which are
19 insured by the Federal Deposit Insurance Corporation. Any
20 public agency may invest any public funds in short term
21 discount obligations of the Federal National Mortgage
22 Association or in shares or other forms of securities legally
23 issuable by savings banks or savings and loan associations
24 incorporated under the laws of this State or any other state
25 or under the laws of the United States. Investments may be
26 made only in those savings banks or savings and loan
27 associations the shares, or investment certificates of which
28 are insured by the Federal Deposit Insurance Corporation.
29 Any such securities may be purchased at the offering or
30 market price thereof at the time of such purchase. All such
31 securities so purchased shall mature or be redeemable on a
32 date or dates prior to the time when, in the judgment of such
33 governing authority, the public funds so invested will be
34 required for expenditure by such public agency or its

1 governing authority. The expressed judgment of any such
2 governing authority as to the time when any public funds will
3 be required for expenditure or be redeemable is final and
4 conclusive. Any public agency may invest any public funds in
5 dividend-bearing share accounts, share certificate accounts
6 or class of share accounts of a credit union chartered under
7 the laws of this State or the laws of the United States;
8 provided, however, the principal office of any such credit
9 union must be located within the State of Illinois.
10 Investments may be made only in those credit unions the
11 accounts of which are insured by applicable law.

12 (c) For purposes of this Section, the term "agencies of
13 the United States of America" includes: (i) the federal land
14 banks, federal intermediate credit banks, banks for
15 cooperative, federal farm credit banks, or any other entity
16 authorized to issue debt obligations under the Farm Credit
17 Act of 1971 (12 U.S.C. 2001 et seq.) and Acts amendatory
18 thereto; (ii) the federal home loan banks and the federal
19 home loan mortgage corporation; and (iii) any other agency
20 created by Act of Congress.

21 (d) Except for pecuniary interests permitted under
22 subsection (f) of Section 3-14-4 of the Illinois Municipal
23 Code or under Section 3.2 of the Public Officer Prohibited
24 Practices Act, no person acting as treasurer or financial
25 officer or who is employed in any similar capacity by or for
26 a public agency may do any of the following:

27 (1) have any interest, directly or indirectly, in
28 any investments in which the agency is authorized to
29 invest.

30 (2) have any interest, directly or indirectly, in
31 the sellers, sponsors, or managers of those investments.

32 (3) receive, in any manner, compensation of any
33 kind from any investments in which the agency is
34 authorized to invest.

1 (e) Any public agency may also invest any public funds
2 in a Public Treasurers' Investment Pool created under Section
3 17 of the State Treasurer Act. Any public agency may also
4 invest any public funds in a fund managed, operated, and
5 administered by a bank, subsidiary of a bank, or subsidiary
6 of a bank holding company or use the services of such an
7 entity to hold and invest or advise regarding the investment
8 of any public funds.

9 (f) To the extent a public agency has custody of funds
10 not owned by it or another public agency and does not
11 otherwise have authority to invest such funds, the public
12 agency may invest such funds as if they were its own. Such
13 funds must be released to the appropriate person at the
14 earliest reasonable time, but in no case exceeding 31 days,
15 after the private person becomes entitled to the receipt of
16 them. All earnings accruing on any investments or deposits
17 made pursuant to the provisions of this Act shall be credited
18 to the public agency by or for which such investments or
19 deposits were made, except as provided otherwise in Section
20 4.1 of the State Finance Act or the Local Governmental Tax
21 Collection Act, and except where by specific statutory
22 provisions such earnings are directed to be credited to and
23 paid to a particular fund.

24 (g) A public agency may purchase or invest in repurchase
25 agreements of government securities having the meaning set
26 out in the Government Securities Act of 1986 subject to the
27 provisions of said Act and the regulations issued thereunder.
28 The government securities, unless registered or inscribed in
29 the name of the public agency, shall be purchased through
30 banks or trust companies authorized to do business in the
31 State of Illinois.

32 (h) Except for repurchase agreements of government
33 securities which are subject to the Government Securities Act
34 of 1986, no public agency may purchase or invest in

1 instruments which constitute repurchase agreements, and no
2 financial institution may enter into such an agreement with
3 or on behalf of any public agency unless the instrument and
4 the transaction meet the following requirements:

5 (1) The securities, unless registered or inscribed
6 in the name of the public agency, are purchased through
7 banks or trust companies authorized to do business in the
8 State of Illinois.

9 (2) An authorized public officer after ascertaining
10 which firm will give the most favorable rate of interest,
11 directs the custodial bank to "purchase" specified
12 securities from a designated institution. The "custodial
13 bank" is the bank or trust company, or agency of
14 government, which acts for the public agency in
15 connection with repurchase agreements involving the
16 investment of funds by the public agency. The State
17 Treasurer may act as custodial bank for public agencies
18 executing repurchase agreements. To the extent the
19 Treasurer acts in this capacity, he is hereby authorized
20 to pass through to such public agencies any charges
21 assessed by the Federal Reserve Bank.

22 (3) A custodial bank must be a member bank of the
23 Federal Reserve System or maintain accounts with member
24 banks. All transfers of book-entry securities must be
25 accomplished on a Reserve Bank's computer records through
26 a member bank of the Federal Reserve System. These
27 securities must be credited to the public agency on the
28 records of the custodial bank and the transaction must be
29 confirmed in writing to the public agency by the
30 custodial bank.

31 (4) Trading partners shall be limited to banks or
32 trust companies authorized to do business in the State of
33 Illinois or to registered primary reporting dealers.

34 (5) The security interest must be perfected.

1 (6) The public agency enters into a written master
2 repurchase agreement which outlines the basic
3 responsibilities and liabilities of both buyer and
4 seller.

5 (7) Agreements shall be for periods of 330 days or
6 less.

7 (8) The authorized public officer of the public
8 agency informs the custodial bank in writing of the
9 maturity details of the repurchase agreement.

10 (9) The custodial bank must take delivery of and
11 maintain the securities in its custody for the account of
12 the public agency and confirm the transaction in writing
13 to the public agency. The Custodial Undertaking shall
14 provide that the custodian takes possession of the
15 securities exclusively for the public agency; that the
16 securities are free of any claims against the trading
17 partner; and any claims by the custodian are subordinate
18 to the public agency's claims to rights to those
19 securities.

20 (10) The obligations purchased by a public agency
21 may only be sold or presented for redemption or payment
22 by the fiscal agent bank or trust company holding the
23 obligations upon the written instruction of the public
24 agency or officer authorized to make such investments.

25 (11) The custodial bank shall be liable to the
26 public agency for any monetary loss suffered by the
27 public agency due to the failure of the custodial bank to
28 take and maintain possession of such securities.

29 (i) Notwithstanding the foregoing restrictions on
30 investment in instruments constituting repurchase agreements
31 the Illinois Housing Development Authority may invest in, and
32 any financial institution with capital of at least
33 \$250,000,000 may act as custodian for, instruments that
34 constitute repurchase agreements, provided that the Illinois

1 Housing Development Authority, in making each such
2 investment, complies with the safety and soundness guidelines
3 for engaging in repurchase transactions applicable to
4 federally insured banks, savings banks, savings and loan
5 associations or other depository institutions as set forth in
6 the Federal Financial Institutions Examination Council Policy
7 Statement Regarding Repurchase Agreements and any regulations
8 issued, or which may be issued by the supervisory federal
9 authority pertaining thereto and any amendments thereto;
10 provided further that the securities shall be either (i)
11 direct general obligations of, or obligations the payment of
12 the principal of and/or interest on which are unconditionally
13 guaranteed by, the United States of America or (ii) any
14 obligations of any agency, corporation or subsidiary thereof
15 controlled or supervised by and acting as an instrumentality
16 of the United States Government pursuant to authority granted
17 by the Congress of the United States and provided further
18 that the security interest must be perfected by either the
19 Illinois Housing Development Authority, its custodian or its
20 agent receiving possession of the securities either
21 physically or transferred through a nationally recognized
22 book entry system.

23 (j) In addition to all other investments authorized
24 under this Section, a community college district may invest
25 public funds in any mutual funds that invest primarily in
26 corporate investment grade or global government short term
27 bonds. Purchases of mutual funds that invest primarily in
28 global government short term bonds shall be limited to funds
29 with assets of at least \$100 million and that are rated at
30 the time of purchase as one of the 10 highest classifications
31 established by a recognized rating service. The investments
32 shall be subject to approval by the local community college
33 board of trustees. Each community college board of trustees
34 shall develop a policy regarding the percentage of the

1 college's investment portfolio that can be invested in such
2 funds.

3 Nothing in this Section shall be construed to authorize
4 an intergovernmental risk management entity to accept the
5 deposit of public funds except for risk management purposes.

6 (Source: P.A. 90-319, eff. 8-1-97.)

7 Section 99. Effective date. This Act takes effect upon
8 becoming law.